

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>GENERAL POPULATION BLOCK 2</b>	:	<b>CIVIL ACTION NO. 1:13-CV-292</b>
<b>LEBANON COUNTY PRISON,</b>	:	
<b>Plaintiffs</b>	:	
	:	<b>(Judge Conner)</b>
<b>v.</b>	:	
	:	
<b>LEBANON COUNTY PRISON,</b>	:	
<b>Defendant</b>	:	

**ORDER**

AND NOW, this 14th day of May, 2013, upon consideration of the Report and Recommendation of United States Magistrate Judge Thomas M. Blewitt (Doc. 17), recommending that: (1) plaintiff Santiago's motion to proceed *in forma pauperis* be granted; (2) the 30-Day Administrative Order be vacated; (3) Defendant Lebanon County Prison be dismissed with prejudice, and (4) Plaintiff Santiago's request for class certification be denied, and, following an independent review of the record, it appearing that neither party has objected to the magistrate judge's report and recommendation,

and that there is no clear error on the face of the record,<sup>1</sup> see Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (explaining that “failing to timely object to [a report and recommendation] in a civil proceeding may result in forfeiture of *de novo* review at the district court level”), it is hereby ORDERED that:

1. The Report and Recommendation of Magistrate Judge Blewitt (Doc. 17) are ADOPTED.
2. Plaintiff Santiago’s motion to proceed *in forma pauperis* (Doc. 13) is GRANTED.
3. The 30-Day Administrative Order (Doc. 16) is VACATED.
4. Defendant Lebanon County Prison is DISMISSED with prejudice.
5. Plaintiff Santiago’s request for class certification is DENIED.

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<sup>1</sup> When parties fail to file timely objections to a magistrate judge’s report and recommendation, the Federal Magistrates Act does not require a district court to review the report before accepting it. Thomas v. Arn, 474 U.S. 140, 149 (1985). As a matter of good practice, however, the Third Circuit expects courts to “afford some level of review to dispositive legal issues raised by the report.” Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987). The advisory committee notes to Rule 72(b) of the Federal Rules of Civil Procedure indicate that “[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72(b), advisory committee notes; see also Henderson, 812 F.2d at 878-79 (stating that “the failure of a party to object to a magistrate’s legal conclusions may result in the loss of the right to de novo review in the district court”); Tice v. Wilson, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) (holding that the court’s review is conducted under the “plain error” standard); Cruz v. Chater, 990 F. Supp. 375-78 (M.D. Pa. 1998) (holding that the court’s review is limited to ascertaining whether there is “clear error on the face of the record”); Oldrati v. Apfel, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (holding that the court will review the report and recommendation for “clear error”). The court has reviewed the magistrate judge’s report and recommendation in accordance with this Third Circuit directive.

6. Plaintiff is granted leave to file an amended complaint within twenty (20) days of the date of this order regarding only his Eighth Amendment claims against proper party Defendants as specified in Magistrate Judge Blewitt's Report and Recommendation. Failure to file an amended complaint in a timely fashion shall be deemed an abandonment of these claims and this matter shall be dismissed with prejudice.
7. The above-captioned case is REMANDED to Magistrate Judge Blewitt for further proceedings.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge